

**Filed by the Board of Professional
Engineers and Land Surveyors on**

Date 10/10/12

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

IN THE MATTER OF THE LICENSE OF	:	Administrative Action
	:	
JAMES V. DEMURO, P.E., P.L.S.	:	FINAL ORDER
License No. 24GB02186600	:	OF DISCIPLINE
	:	
TO PRACTICE PROFESSIONAL ENGINEERING	:	
AND PROFESSIONAL LAND SURVEYING	:	
IN THE STATE OF NEW JERSEY	:	
	:	

THIS MATTER was opened to the New Jersey State Board of Professional Engineers and Land Surveyors ("Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent, James V. Demuro, P.E., P.L.S., is the holder of License No. 24GB02186600 and was licensed to practice professional engineering and professional land surveying in the State of New Jersey on February 1, 1975.

2. On or about March 28, 2011 a "Judgment in a Criminal Case" was entered against Respondent in the United States District Court, District of New Jersey, for violation of 18 U.S.C. §371 (Conspiracy to Defraud the United States) and 26 U.S.C. §7202 (Failure to Account for and Pay Over Employment Tax). As a result, Respondent was imprisoned for 51 months on Count I and 51 months on each of Counts 2-22 of the Second Superseding Indictment, all terms to run concurrently, together with other terms and conditions.

CONCLUSION OF LAW

The above criminal conviction provides grounds to take disciplinary action against Respondent's license to practice professional engineering and professional land surveying in the State of New Jersey pursuant to N.J.S.A. 45:1-21(f).

DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was entered by this Board on January 20, 2012 and served by regular and certified mail upon Respondent at his address of record. The POD was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and

conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

At its September 20, 2012 meeting, the Board reviewed a response from Respondent dated April 12, 2012. Respondent argues that the Board is revoking his professional engineering and professional land surveying licenses based on his criminal conviction for conspiracy and failure to account and pay over payroll taxes for his engineering and land surveying firm, TAD Associates, L.L.C. d/b/a DeMuro Associates, without consideration of the offense, his character and 35 year history. He further argues that his criminal conviction does not constitute a crime of moral turpitude because failure to pay the payroll taxes for his engineering and land surveying company does not constitute an extreme departure from ordinary standards of good morals, justice or ethics as to be shocking to the normal sense of the community. He states that he only damaged the United States of America and that the IRS improperly shifted his case from a civil to criminal action.

Respondent informs the Board that he has filed an appeal with the Third Circuit Court in Philadelphia and believes that his case will be remanded to the District Court in Trenton. In summary,

Respondent requests that his licenses not be revoked because: (1) there is a pending appeal; (2) his criminal conviction is not related to his professional licenses, nor a crime of moral turpitude; and (3) he cannot renew his license in 2012 due to failure to complete the continuing education requirements and, therefore, requests to be placed into an "inactive" status.

The Board notes that Respondent was the licensee in responsible charge of TAD Associates, L.L.C. ("TAD"), a New Jersey professional engineering and professional land surveying firm. TAD's Certificate of Authorization issued by the Board expired on or about August 31, 2012 and that firm is no longer authorized to offer and/or provide professional engineering and professional land surveying services in the State of New Jersey. Further, Respondent permitted his licenses to practice professional engineering and professional land surveying in New Jersey to lapse on April 30, 2012 which has resulted in the automatic suspension of his licenses without a hearing pursuant to N.J.S.A. 45:1-7.1(b).

The Board has carefully considered this matter, including Respondent's response, and rejects his arguments for the reasons set forth hereafter. The Board finds that Respondent has had ample opportunity to respond to the POD and provide relevant information concerning his criminal conviction, character and prior history,

and, in fact, did so. Therefore, the Board rejects Respondent's argument that it has failed to consider relevant information prior to rendering its final decision.

The Board further rejects Respondent's arguments that his criminal conviction does not involve moral turpitude or relate adversely to the practice of professional engineering and professional land surveying. Rather, New Jersey courts have long held that falsification of tax returns and willful evasion of taxes constitute a crime of moral turpitude. See Berardi v. Rutter, 42 N.J. Super. 39, 48 (App. Div. 1956) aff'd at 23 N.J. 485 (1957); Mount v. Trustees of Public Employment Retirement System, 133 N.J. Super. 72, 81 (App. Div. 1975); DeMoura v. Newark, 90 N.J. Super. 225, 229 (App. Div. 1965).

Additionally, the Board's review of the criminal conviction documents, including the transcripts of the proceedings, indicates that Respondent's actions were very serious. More specifically, on November 18, 2010 a unanimous jury found Respondent guilty of: conspiracy (Count 1); wilful failure to pay over July 31, 2002 due date (Count 2); wilful failure to pay over October 31, 2002 due date (Count 3); wilful failure to pay over July 31, 2003 due date (Count 4); wilful failure to pay over October 31, 2003 due date (Count 5); wilful failure to pay over April 30, 2004 due date

(Count 6); wilful failure to pay over July 31, 2004 due date (Count 7); wilful failure to pay over January 31, 2005 due date (Count 8); wilful failure to pay over April 30, 2005 due date (Count 9); wilful failure to pay over July 31, 2005 due date (Count 10); wilful failure to pay over April 30, 2006 due date (Count 11); wilful failure to pay over July 31, 2006 due date (Count 12); wilful failure to pay over October 31, 2006 due date (Count 13); wilful failure to pay over January 31, 2007 due date (Count 14); wilful failure to pay over April 30, 2007 due date (Count 15); wilful failure to pay over July 31, 2007 due date (Count 16); wilful failure to pay over October 31, 2007 due date (Count 17); wilful failure to pay over January 31, 2008 due date (Count 18); wilful failure to pay over April 30, 2008 due date (Count 19); wilful failure to pay over July 31, 2008 due date (Count 20); wilful failure to pay over October 31, 2008 due date (Count 21); wilful failure to pay over January 31, 2009 due date (Count 22).

Clearly, the unanimous verdict of the jury demonstrates protracted wilful conduct to evade paying taxes by Respondent resulting in his criminal conviction - and Respondent's attempts to diminish the seriousness of his acts by reclassifying them as "civil" rather than "criminal" shows his lack of remorse. Thus, the Board finds that Respondent's protracted wilful criminal acts

through use of TAD, the engineering and land surveying firm where he was the licensee in responsible charge, relates adversely to the practice of these professions. But for his professional licenses and the funds derived therefrom, Respondent would not have been in a position to commit this crime.

Finally, it is in the interests and protection of the public to ensure that licensees of this Board understand the significance of, and comply with, state and federal laws, as well as practice in a professional and ethical manner, which maintains the public's trust and confidence. Respondent has breached that trust and misused his professional practice to further his personal interests, which likewise relates adversely to the practice of professional engineering and professional land surveying.

In conclusion, the Board has reviewed Respondent's submission and finds that it has ample statutory authority to revoke his New Jersey licenses to practice professional engineering and professional land surveying and, therefore, rejects Respondent's request to place those licenses into a non-disciplinary status of "inactive." The Board further finds that it is not required to indefinitely stay its final decision until the Respondent has exhausted all of his appeal rights. More importantly, the Board does not believe it serves the public's interests to permit a protracted delay of its action while Respondent's appeal is

pending. If Respondent successfully overturns his criminal conviction, then he is free to petition the Board for reconsideration of the matter.

Accordingly, for the reasons set forth above, the Board finds that further proceedings are unnecessary and that nothing Respondent provided merits mitigation of his penalty. Thus, the Board voted to finalize the Provisional Order of Discipline without change.

ORDER

ACCORDINGLY, IT IS ON THIS 10th day of October 2012,
ORDERED THAT Respondent's license to practice professional engineering and professional land surveying in the State of New Jersey shall be, and hereby is, **REVOKED**.

STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

By:


PERRY SCHWARTZ, P.E.
Board President